

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KRISTIN BALLAS,
Plaintiff,
-v-
GREENHOUSE SOFTWARE, INC. and
NEW YORK CONVENTION CENTER
OPERATING CORPORATION, d/b/a
THE JACOB K. JAVITS
CONVENTION CENTER,
Defendants.

22-CV-10332 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

On January 26, 2023, Defendant New York Convention Center Operating Corporation (NYCCOC) moved to dismiss this action pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) based on Plaintiff's failure to serve it with a Notice of Claim within the 90-day period required under New York Law where the defendant is a public benefit corporation. (ECF No. 13.)

Plaintiff now moves for leave to discontinue the action without prejudice as against Defendant NYCCOC so that she may file a late notice of claim and an amended complaint before the Supreme Court of New York, pursuant to General Municipal Law § 50-e(7). (ECF No. 17.) Plaintiff's letter motion for leave to discontinue is unopposed.

Plaintiff's motion is therefore granted. The action is discontinued as against Defendant NYCCOC, without prejudice. *See* FED. R. CIV P. 41(a)(2).

The Clerk of Court is respectfully directed to close the motions at ECF Numbers 11 and 17 and to terminate NYCCOC as a defendant in this case.

SO ORDERED.

Dated: February 9, 2023
New York, New York



J. PAUL OETKEN
United States District Judge